IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 14311 of 2005

Between:

S. Majubur Rahman, S/o. Shaik John Saheb , Muslim
R/o. D.No. 3-272-A3, Thapovanam, Ananthapur,

Ananthapur District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur,.
2 The Regional Manager, APSRTC, Ananthapur Region, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari or any other appropriate writ, call for the records relating to Proceedings bearing No. 02/122(49)2003-RM-A dt. 5-6-2004 of the 2nd Respondent and quash the same as illegal, arbitrary, in violation of principles of natural justice and in violation of Art. 14 and 21 of the Constitution of India and consequentially direct the respondents to return the E.M.D. Amount of Rs. 75,000/- to the petitioner forthwith and pass such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.M.GANGA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY (SC FOR

APSRTC)

The Court made the following :

O R D E R:

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This Writ Petition is filed by the petitioner aggrieved by the action of the 2nd respondent in issuing proceedings dated 05.06.2004, under which it was alleged that the petitioner made certain bogus claims and received excess payments from the Corporation, which was pointed out in the internal audit.

2. The contention of the petitioner is that he did not make any excess claim at any point time. According to the petitioner, he is required to carry out the work entrusted to him, such as cleaning, washing and sweeping of the buses at Ananthapur Depot under the supervision of the Officers of the Corporation and he will carry out such works only as and when ordered under the supervision of the Officers of the Corporation, and therefore, there is no scope to the petitioner to make any excess claim.

3. Heard the both sides and considered the material on record.

4. Though a show cause notice was issued, but, however, without conducting any proper enquiry, the 2nd respondent decided that the petitioner received excess amount from the Corporation to a tune of Rs.66,075/-, and therefore, sought to recover the said amount from out of the security deposit of Rs.75,000/- and forfeiting the balance amount. In any case, it is a matter for enquiry by giving a show cause notice to the petitioner along with all the details of the excess bills actually alleged to have been made by the petitioner, and thereafter the petitioner has to answer the specific instances of excess claims if any made by him, but not by way of vague reference to the alleged excess claims, Therefore, the Corporation is not entitled to collect any amount either from out of the security deposit or otherwise.

5. Under the above circumstances, the impugned order passed by the 2nd respondent is set aside on the ground that the same was passed without conducting proper enquiry, as is required to fix the liability, if any, against the petitioner. However, the matter is left open to the 2nd respondent, if so chooses to make an enquiry so as to fix up the liability against the petitioner by issuing a detailed show cause notice specifying the instances of the excess claims made by the petitioner,

and the petitioner should be given an opportunity to meet the specific instances of allegations made against him, and thereafter only the authorities are directed to conclude their decision as to the allegations made against the petitioner. Thereafter, the respondents are entitled to pass appropriate orders. The said exercise, if the 2nd respondent intends to initiate any action, shall be completed within a period of six months from the date of receipt of a copy of this order; or otherwise the 2nd respondent is liable to refund the security deposit of Rs.75,000/- made by the petitioner.

6. The Writ Petition is disposed of accordingly. No costs.

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S.Ananda Reddy, J.

18…07…2005

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To

1 The Depot Manager, APSRTC, Ananthapur Depot, Ananthapur,.
2 The Regional Manager, APSRTC, Ananthapur Region, Ananthapur.

3) Two CD copies

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P. No. 14311 of 2005

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